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FISCAL IMPACT REPORT

ORIGINAL DATE 2/01/06
 LAST UPDATED 2/07/06

SPONSOR HGUAC HB CS/475/aHAFC

SHORT TITLE Intertribal Ceremonial Board Members SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

HB 475 relates to:

- SB615, which appropriates \$375 thousand to the Tourism Department for the Gallup Intertribal Ceremonial.
- HB578, which appropriates \$50 thousand to the Tourism Department for the Gallup Intertribal Ceremonial.
- HC238, which requests \$75 thousand to acquire land and a building for the Intertribal Ceremonial Office in Gallup, NM.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Tourism Department (TD)

Indian Affairs Department (DIA)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 475 strikes the \$295 thousand appropriation.

Synopsis of HGUAC Substitute

The House Government and Urban Affairs Committee substitute for HB 475 would explicitly allow the Intertribal Ceremonial Office to raise funds from fees for admission, parking, conces-

sion, sponsorships and other forms of advertising. It should be noted that the substitute bill, as written, requires the Intertribal Ceremonial Office to:

“charge admission, parking and concessions fees, give prizes and premiums, create sponsorships and other forms of advertising, arrange entertainments and do all things the office may consider proper for the conduct of the intertribal ceremonial and not otherwise prohibited by law.”

The money deposited to the Intertribal Ceremonial Fund is appropriated to the Intertribal Ceremonial Office.

Synopsis of Original Bill

House Bill 475 appropriates \$295 thousand from the general fund to the intertribal ceremonial fund to pay to carry out the duties of the Intertribal Ceremonial Act and pay the salary of the 2 FTE, a director and director’s assistant, and board per diem expenses. The bill further amends the Intertribal Ceremonial Act to add the Secretary of Tourism to the Intertribal Ceremonial Board. The bill declares an emergency.

FISCAL IMPLICATIONS

The appropriation of \$295 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund

Continuing Appropriations language

This bill provides for continuing appropriations to the Intertribal Ceremonial Fund. The LFC has concerns with including continuing appropriation language in the statutory provisions for a fund, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

The Legislature in 2005 enacted House Bill 481 (Section 9-15-C1 through 9-15-C5), reestablishing the Intertribal Ceremonial Office (ICO) as a government entity. LFC and DFA, State Budget Division, recognized the Intertribal Ceremonial Office as a new agency, administratively attached to the Tourism Department. However, the Financial Control Division of DFA established a new program code within the Tourism Department for the ICO, causing some confusion for the Tourism Department about its responsibilities for the ICO.

This legislation would leave the ICO as an independent agency, administratively attached to the Tourism Department.

Senate Bill 190 (Chapter 34 Laws 2005) appropriated \$47.5 thousand to the Tourism Department for the Intertribal Ceremonial Office for fiscal year 2006, which has yet to be expended. The General Appropriation Act (HAFC substitute for House Bills 2, 3, 4, 5, 6 and 78) does not contain funding for the agency for fiscal year 2007.

The Tourism Department requests that House Bill 475 be amended to establish the office within the department, and recommends amendment language (see below). The department does not

manage and operate annual events like the Intertribal Ceremonial or the New Mexico Expo. However, TD believes that moving this Office into the department, securing recurring funding and obtaining at least 2 authorized FTE in FY06 will allow TD to begin to successfully administer the Intertribal Ceremonial.

ADMINISTRATIVE IMPLICATIONS

The administrative impact is indeterminate but significant. TD is not certain if 2 FTE and \$295 thousand in recurring funding is adequate for successful administration of this event.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

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TECHNICAL ISSUES

TD suggests that HB475, as currently drafted, does not resolve legal questions in the original enacting legislation. More specifically, HB475, as currently drafted, does not allow the ICO to generate and retain revenues from admissions, parking, concessions, and sponsorship. The department recommends amendment language below.

OTHER SUBSTANTIVE ISSUES

According to DIA, the Intertribal Ceremonial is the fifth largest tourist attraction in the state and an almost annual event for more than 84 years. The majority membership of the Intertribal Ceremonial Board consists of Native Americans. HB475 could assist tribal and state governments to develop culturally appropriate tourism and marketing plans. Such plans could bring economic benefits to individual Indians, their tribes, pueblos, and the state.

Furthermore, as reported by the New Mexico Department of Tourism, Indian culture is of the top three reasons people visit New Mexico. The New Mexico Indian Tourism Association (NMITA), in partnership with the New Mexico Tourism Department, is developing educational programs for tribal communities that promote Indian tourism in a culturally sensitive manner.

ALTERNATIVES

TD suggests that the Legislature could to support this event through non-recurring appropriations passed through TD to the non-profit entity currently administering the event.

TD also recommends the following changes to the legislation to establish the Intertribal Ceremonial Office within the department, further specify board composition, and expand revenue sources.

- Strike “and administratively attached to” in section 3 (A) on page 2, line 12 and replace with “within”.
- Insert “and any other form of revenue” in section 3, paragraph D (5) after “devises” and before “from any source.” on page 3, line 13.
- Insert “(7). charge admission, parking and concessions fees, to give prizes and premiums, create sponsorships and other forms of advertising, arrange entertainments and do all things necessary which the Office may consider proper for the conduct of Intertribal Ceremonial Office not otherwise prohibited by law.” after “contracts.” in section 3 on page 3, line 15.
- Insert “two members of the board shall be bona fide residents of McKinley County” after “state,” and before “and at least a majority” on page 4 ,line 2.
- Insert “The "intertribal ceremonial fund" is created in the state treasury. Money in the fund is appropriated to the intertribal ceremonial office. The fund shall consist of all monies appropriated, created, or raised by the activities of the office, including but not limited to all gifts, donations, and revenue created by admissions, parking, advertising, concessions and sponsorship. Money in the fund at the end of any fiscal year shall not revert. Interest and earnings from the fund shall be credited to the fund. The fund shall be administered by the office.” after “fund.” on page 4, line 14.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The non-profit Intertribal Ceremonial will continue to struggle financially.

BE/nt:yr